

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

KENDALL KIZART

PLAINTIFF

V.

NO. 4:19-CV-118-DMB-JMV

**JUAN JAMES, JR., and
FASTENAL COMPANY**

DEFENDANTS

ORDER

On August 14, 2019, Kendall Kizart filed a complaint in the United States District Court for the Northern District of Mississippi against Juan James, Jr., and Fastenal Company. Doc. #1. The complaint alleges claims for negligence arising from a vehicle collision involving a car driven by Lucas Jackson, in which Kizart was a passenger, and a vehicle driven by James in the scope of his employment with Fastenal.

On September 4, 2019, Kizart filed a motion to consolidate this case with *Hodges v. Fastenal Company*, No. 4:19-cv-110-SA-JMV, a similar action filed in the United States District Court for the Northern District of Mississippi by Jackson and two other passengers in the car—Jamarcus Walker and Jamario Hodges. Doc. #6. The motion to consolidate asks that the earlier-filed *Hodges* action be consolidated “into the present action.” *Id.* at 1. As grounds for consolidation, Kizart represents that the cases involve common questions of law and fact. *Id.* As grounds for making this case the lead case, Kizart contends that “[a]ll of the Plaintiffs and certain fact witnesses reside in the Greenville Division. Logistical considerations, judicial economy, witness location, convenience and fairness are all factors this Court should consider in ruling upon this consolidation request.” *Id.* at 2.

Federal Rule of Civil Procedure 42(a) “provides district courts with broad authority to consolidate actions that involve a common question of law and fact.” *Luera v. M/V Alberta*, 635 F.3d 181, 194 (5th Cir. 2011) (quotation marks omitted). When an action is to be consolidated under Rule 42, the Local Rules of this Court require that “the action bearing the lower or lowest docket number will control the designation of the district or magistrate judge before whom the motion to consolidate is noticed; the docket number will also determine the judge before whom the case or cases will be tried.” L.U. Civ. R. 42.

Here, the motion to consolidate was not noticed before Chief Judge Sharion Aycock, the presiding district judge in the lower numbered action. Accordingly, the motion to consolidate [6] is **DENIED without prejudice**.

SO ORDERED, this 1st day of October, 2019.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE